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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,743	10/26/2001	Balakrishnan Shankar	SJ1-026US	9121
36802	7590	07/07/2005		
PACESETTER, INC. 15900 VALLEY VIEW COURT SYLMAR, CA 91392-9221			EXAMINER OROPEZA, FRANCES P	
			ART UNIT	PAPER NUMBER
			3762	
DATE MAILED: 07/07/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/039,743

Applicant(s)

SHANKAR ET AL.

Examiner

Frances P. Oropeza

Art Unit

3762

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 17 June 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.

6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

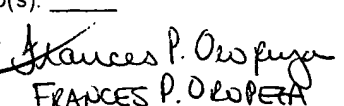
11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:

See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s): \_\_\_\_\_.

13. ☐ Other: \_\_\_\_\_.

  
ROBERT E. PEZZUTO  
PRIMARY EXAMINER

  
FRANCES P. OROPEZA  
PATENT EXAMINER  
ART UNIT 3762 7/3/05

Continuation of 11. does NOT place the application in condition for allowance because:

The Applicant's arguments filed 6/17/05 have been fully considered but they are not convincing.

The Applicant states the claims have been amended in the third line of the remarks section of his response. No amendments are found hence no response related to amendments is provided.

In response to the Applicant's argument that the references fail to show a certain feature of the Applicant's invention, it is noted that the features upon which the Applicant relies (i.e., a housing) is not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The term housing is not found in the independent claims 3, 8, 10 and 19, but rather "casing" (claims 3 and 8) and "encasing" (claim 10). There is no mention of a housing in claim 19.

The Applicant argues Haulrich does not teach the recited claim elements. The Examiner disagrees.

The Applicant argues Haubrich does not disclose a second chamber in the form of a header 14 to isolate the pacing/sensing circuitry from the communication circuitry. The Examiner disagrees. It is true Haubrich identifies limitation 14 as a connector block (col. 2 @ 53), but he also calls it a connector module (col. 53 @ 58) and notes the terms header and connector block are interchangeable (col. 1 @ 25), hence Haubrich is read to disclose a second chamber, noted by the Examiner as a header, to isolate the pacing/sensing circuitry from the communication circuitry.

In response to the Applicant's argument that the references fail to show certain features of the Applicant's invention, it is noted that the features upon which the Applicant relies (i.e., a single casing with two chambers) is not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In claims 3 and 8, a "casing comprising a first chamber... and a second chamber" is claimed. In claim 10, an "encasing constructed to define a first and second chambers" is claimed. In claim 19, "a first can... and a second can" are claimed.

In response to the Applicant's argument that the references fail to show certain features of the Applicant's invention, it is noted that the features upon which the Applicant relies (i.e., "communication circuitry stored in a second chamber of the casing which is adapted to transmit and receive signals via an antenna") is not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In claims 3, 8 and 10, the casing/ encasing is not claimed as a separate entity, but rather the casing is read to "comprise a first chamber" "and a second chamber" (claims 3 and 8) / to "define a first and second chambers" (claim 10). As noted previously, claim 19 has claimed no "housing".

In response to the Applicant's argument that the references fail to show certain features of the Applicant's invention, it is noted that the features upon which the Applicant relies (i.e., "communication circuitry" being a "transceiver") is not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The term "communication circuitry" has been broadly read to include the antenna and diplexer, and the antenna read to be a transceiver since as part of the transceiver, it is used for both reception and transmission (see further details in rejection of record), hence "communication circuitry" an antenna/ an RF transceiver/ a diplexer are housed in a second chamber/ can.

The rejection of record stands.

JPO  
7/3/05